

Remarks/Arguments

Applicants have received and carefully reviewed the Office Action of the Examiner mailed October 2, 2006. Currently, claims 1-41 remain pending of which claims 1-41 have been rejected. In this amendment, claims 1 and 16 have been amended. Support for the amendments may be found in the Specification and Drawings as filed, an exemplary portion of the Specification where the support may be found is page 10, line 19. Favorable consideration of the following remarks is respectfully requested.

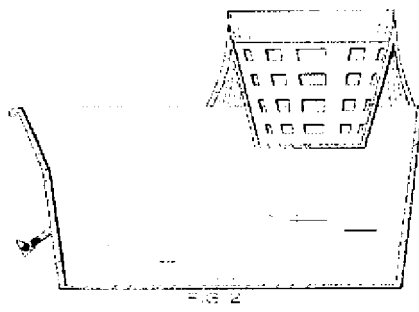
Claim Rejections – 35 USC § 102

On page 2 of the Office Action, claims 1-6, 9, 10, 15-19, 22, 23, and 27 were rejected under 35 U.S.C. 102(b) as being anticipated by Oas (US Design Patent 227,148). After careful review, Applicant must respectfully disagree.

Turning to claim 1, which has been amended to recite:

1. (Currently Amended) A bucket tool organizer, comprising:
a tool insert situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a holster substantially spanning the opening having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel, the holster having an upper end recessed from the upper end of the container.

As amended, claim 1 recites in part, “the holster having an upper end recessed from the upper end of the container”. Applicant believes that nowhere does Oas teach this limitation. In contrast, as Figure 2 of Oas appears to show, the holster is extending above the upper end of the container and appears to not be recessed from the upper end of the container.



Therefore, Oas does not appear to teach all of the claim limitations of amended claim 1. Thus, Applicant believes that claim 1 is allowable over Oas and Applicant respectfully requests withdrawal of the rejection.

Additionally, for similar reasons given above, as well as others, claims 2-6, 9, 10, and 15, which depend from claim 1 and include significant additional limitation, are believed to be allowable over Oas and Applicant respectfully requests withdrawal of the rejection.

Turning to claim 16, which has been amended to recite:

16. (Currently Amended) A bucket tool organizer, comprising:
a tool insert removably situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a contoured holster having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and
fastening means for releasably securing the tool insert to the upper end of the container in a position recessed from the upper end of the container.

As amended, claim 16 recites in part, “fastening means for releasably securing the tool insert to the upper end of the container in a position recessed from the upper end of the container”. Similar to discussed above with reference to claim 1, nowhere does Oas appear to teach releasably securing the tool insert in a position recessed from the upper end of the container. Again, this appears to be shown in Figures 2 and 3.

Therefore, for similar reasons given above, as well as others, claim 16 is believed to be allowable over Oas and Applicant respectfully requests withdrawal of the rejection.

Additionally, for similar reasons given above, as well as others, claims 17-19, 22, 23, and 27, which depend from claim 16 and include significant additional limitation, are believed to be allowable over Oas and Applicant respectfully requests withdrawal of the rejection.

On page 3 of the Office Action, claims 1 and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by Fogelberg (US Patent No. 5,186,329). After careful review, Applicant must respectfully disagree.

Turning to claim 1, which has been amended to recite:

1. (Currently Amended) A bucket tool organizer, comprising:
a tool insert situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a holster substantially spanning the opening having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel, the holster having an upper end recessed from the upper end of the container.

As amended, claim 1 recites in part, “the holster having an upper end recessed from the upper end of the container”. Applicant believes that nowhere does Fogelberg teach this limitation.

Fogelberg appears to teach a tool holder (10) for use with an open-ended container or bucket (12). The tool holder (10) includes a handle (14) attached to the outer surface (22) of the outer side wall (16) of the tool holder (10). The tool holder (10) may be received by the bucket (12). However, in contrast to that recited in amended claim 1, the tool holder is not recessed from the upper end of the bucket (12), but extends above the upper end when received by the bucket (12). This appears to be illustrated in Figure 3 of Fogelberg. Additionally, having a handle (14) attached to the outer surface of the tool holder (12), it appears to prevent the upper end of the tool holder (10) from being recessed from the upper end of the bucket (12). Accordingly, Fogelberg does not appear to teach all of the limitations of claim 1 as required for anticipation. Therefore, for reasons given above, as well as others, claim 1 is believed to be allowable over Fogelberg and Applicant respectfully requests withdrawal of the rejection.

Additionally, for similar reasons given above, as well as others, claim 8, which depends from claim 1 and includes significant additional limitation, is believed to be allowable over Fogelberg and Applicant respectfully requests withdrawal of the rejection.

On page 4 of the Office Action, claims 1, 2, 3, 4, 6, 9, 16, 17, 18, and 22 were rejected under 35 U.S.C. 102(b) as being anticipated by Fellman (US Patent No. 6,260,730). After careful review, Applicant must respectfully disagree.

Turning to claim 1, which has been amended to recite:

1. (Currently Amended) A bucket tool organizer, comprising:
a tool insert situated within the interior of a container having an

upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a holster substantially spanning the opening having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel, the holster having an upper end recessed from the upper end of the container.

As amended, claim 1 recites in part, “the holster having an upper end recessed from the upper end of the container”. Applicant believes that nowhere does Fellman teach this limitation.

Fellman appears to teach a flexible liner (10) that fits onto and inside of a paint container (12). The liner (10) includes an attachment ring (18) that is securable to a top of the paint container (12). The attachment ring (18) on the outside edge of the top (13) of the plastic liner (10) facilitates attachment of the liner (10) to the outside lip (24) common to all paint containers. Accordingly, it appears from the description, and from Figures 2, 4, and 7, that the upper end of the liner (10) extends above the upper surface of the paint container (12) in order to facilitate the attachment with the attachment ring (18). Therefore, Fellman does not appear to teach the holster having an upper end recessed from the upper end of the container, as recited in claim 1.

Additionally, for similar reasons given above, as well as others, claims 2, 3, 4, 6, and 9, which depend from claim 1 and include significant additional limitation, are believed to be allowable over Fellman and Applicant respectfully requests withdrawal of the rejection.

Turning to claim 16, which has been amended to recite:

16. (Currently Amended) A bucket tool organizer, comprising:

a tool insert removably situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a contoured holster having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and

fastening means for releasably securing the tool insert to the upper end of the container in a position recessed from the upper end of the container.

As amended, claim 16 recites in part, “fastening means for releasably securing the tool

insert to the upper end of the container in a position recessed from the upper end of the container”. Similar to discussed above with reference to claim 1, nowhere does Fellman appear to teach releasably securing the tool insert in a position recessed from the upper end of the container. Therefore, for similar reasons given above, as well as others, claim 16 is believed to be allowable over Fellman and Applicant respectfully requests withdrawal of the rejection.

Additionally, for similar reasons given above, as well as others, claims 17, 18, and 22, which depend from claim 16 and include significant additional limitation, are believed to be allowable over Fellman and Applicant respectfully requests withdrawal of the rejection.

Claim Rejections – 35 USC § 103

On page 4 of the Office Action, claims 7 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Oas (US Design Patent 227,148). After careful review, Applicant must respectfully disagree.

The Office Action states that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the holster of a fabric or cloth since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Applicant must respectfully disagree.

Oas is titled “Combined Scrub Pail and Mob Squeezer”. Most likely, a fabric or cloth holster would not be effective for use with mops and water, especially for a mob squeezer. It would be difficult to squeeze the water out of the mop if the squeezer is a fabric or cloth. Additionally, if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. (*In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). Therefore, because it appears that a fabric or cloth holster, or squeezer, would render the scrub pail and mop squeezer unsatisfactory for its intended purpose, there is no suggestion or motivation to make the modification. In order to establish a *prima facie* case of obviousness, there must at least be some suggestion or motivation to modify the reference or to combine reference teachings.

Since there is no motivation to modify the reference, a *prima facie* case of obviousness has not been established. Accordingly, for similar reasons, as well as others, claims 7 and 20 are believed to be patentable over Oas and Applicant respectfully requests withdrawal of the rejection.

On page 5 of the Office Action, claims 10-14 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Oas (US Design Patent 227,148) in view of Lindsay (US Patent No. 4,993,551). After careful review, Applicant must respectfully disagree.

With respect to claims 10, 11, 23, and 24, the Office Action states Oas discloses all the limitations of the claim except that the bucket mounted tool carrier includes a cylindrically shaped interior panel configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container. Furthermore, the Office Action states that it would have been obvious to modify the bucket configuration of Oas to include a bucket mounted tool carrier, as taught by Lindsay for providing additional storage for tools such as scrub brushes and sponges.

After careful review, Applicant must respectfully disagree. Applicant believes that there is no motivation to combine the interior panel of Lindsay with the mop bucket of Oas. Lindsay appears to teach a cloth panel which drapes and conforms over the inside and outside surface of the bucket with inner pockets and outer pockets. Applicant believes that a person of skill in the art would not modify the mop bucket to include a cloth panel draped over the edge. First of all, when in use, a mop bucket fills up with soapy water and can have many bubbles. When introduced into water, it is likely that the cloth panel of Lindsay would float in the water and would deform from the water. Also, the cloth panel could become covered in with soap bubbles, which are typically present in a mop bucket. The presence of the bubbles and deformation of the panel could make it difficult to use the cloth panel. Accordingly, Applicant believes that there is no motivation to make the combination suggested in the Office Action. Therefore, for reasons given above, as well as others, Applicant believes that claims 10, 11, 23, and 24 are allowable over Oas in view of Lindsay and Applicant respectfully requests withdrawal of the rejection.

With respect to claims 12, 13, 25, and 26, the Office Action states Lindsay discloses a cylindrically shaped interior panel member that includes a pleated section configured to drape over said open end and extend into the interior of the container and an exterior panel member that includes a slotted section configured to drape over the exterior of the container.

For similar reasons discussed above with regards to the lack of motivation to combine Oas and Lindsay, as well as other reasons, Applicant believes that claims 12, 13, 25, and 26 are allowable over Oas in view of Lindsay and Applicant respectfully requests withdrawal of the rejection.

With respect to claim 14, for similar reasons given above, as well as others, claim 14, which depends from claim 1 and includes significant additional limitations, is believed to be allowable over Oas in view of Lindsay and Applicant respectfully requests withdrawal of the rejection.

On page 6 of the Office Action, claims 16 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fogelberg (US Patent No. 5,186,329) in view of Fellman (US Patent No. 6,260,730).

For similar reasons given above with reference to claim 1 and claim 16 as amended, as well as other reasons, claims 1 and 21, which depend from claims 1 and 16 respectively and include significant additional limitations, are believed to be allowable over Fogelberg in view of Fellman and Applicant respectfully requests withdrawal of the rejection.

On page 6 of the Office Action, claims 28-34 and 36-41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Patent No. 4,993,551) in view of Oas (US Design Patent 227,148). After careful review, Applicant must respectfully disagree.

Turning to claim 28, which recites:

28. (Original) A bucket tool organizer, comprising:
a bucket mounted tool carrier adapted to contour about a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said bucket mounted tool carrier including a cylindrically shaped interior panel member configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container; and

a tool insert situated within the interior of the container, said tool insert including a contoured holster having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel.

To establish a *prima facie* case of obviousness, there must be at least some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Additionally, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. (*In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)).

After careful review, Applicant does not believe that there is any motivation to combine Lindsay with Oas. First of all, Oas teaches a mop bucket that can hold water. Applicant believes that it would not be desirable to include a cloth panel draped over the interior and the exterior of the mop bucket to store tools. The cloth panel could be deformed by the water, which could make it difficult to use. Additionally, the cloth panel disclosed by Lindsay appears to drape over the entire rim of the bucket. In Oas, the mop squeezer appears to have brackets to attach the squeezer to the bucket. If a cloth was to be draped over the mop bucket in Oas, it could interfere with the ability of the brackets to clamp onto the rim of the bucket, and thus, the squeezer would not be able to attach to the bucket.

For at least the reasons given above, as well as others, Applicant believes that there is no motivation to combine the teachings of Lindsay and Oas, and accordingly, there is no *prima facie* case of obviousness. Therefore, Applicant believes that claim 28, and claims 29-34 and 36-39, which depend from claim 28, are allowable over Lindsay in view of Oas and Applicant respectfully requests withdrawal of the rejection.

Turning to claims 40, which recites:

40. (Previously Presented) A bucket tool organizer, comprising:

a bucket mounted tool carrier adapted to contour about a container having an open upper end, a closed lower end, and a side wall, said bucket mounted tool carrier including a cylindrically shaped interior panel member including pockets configured to drape over said open end and extend into the interior of the container, and an exterior panel member

configured to drape over the exterior of the container;
a tool insert removably situated within the interior of the container, said tool insert including a contoured holster having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and
fastening means for releasably securing the tool insert to the upper end of the container and to the bucket mounted tool carrier.

For similar reasons given above, as well as others, claim 40 is believed to be allowable over Lindsay in view of Oas and Applicant respectfully requests withdrawal of the rejection.

Turning to claims 41, which recites:

41. (Original) A bucket tool organizer, comprising:
a bucket mounted tool carrier adapted to contour about a container having an open upper end, a closed lower end, and a side wall, said bucket mounted tool carrier including a cylindrically shaped interior panel member configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container; and
a tool insert situated within the interior of the container, said tool insert including a contoured holster fixedly secured to the bucket mounted tool carrier and having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel.

For similar reasons given above, as well as others, claim 41 is believed to be allowable over Lindsay in view of Oas and Applicant respectfully requests withdrawal of the rejection.

On page 8 of the Office Action, claim 35 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Patent No. 4,993,551) in view of Oas (US Design Patent 227,148) further in view of Marshall (US Patent No 6,138,827).

For similar reasons given above, as well as others, claim 35, which depends from claim 28 and includes significant additional limitations, is believed to be allowable over Lindsay in view of Oas further in view of Marshall and Applicant respectfully requests withdrawal of the rejection.

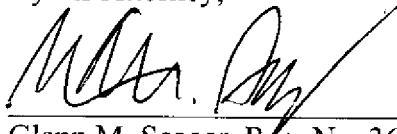
In view of the foregoing, all pending claims, namely claims 1-41, are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

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